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## FACT SHEET

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### Assigned Judges Program

At the request of the presiding judges and justices of the trial and appellate courts, the Chief Justice—assisted by the Assigned Judges Program of the Administrative Office of the Courts—issues temporary judicial assignment orders to active or retired judges and justices to cover vacancies, illnesses, disqualifications, and calendar congestion in the courts.

#### What is the authorization for judicial assignments?

Article VI, section 6 of the California Constitution provides that the Chief Justice “shall seek to expedite judicial business and to equalize the work of the judges.” To accomplish this, the Chief Justice may provide for the temporary assignment of any judge to a court. A retired judge in the program may be assigned to any court and has all the powers of the position to which he or she is assigned.

The Assigned Judges Program is governed by standards and guidelines adopted by the Chief Justice to maintain the effectiveness and quality of judicial assignments. These standards and guidelines set out eligibility requirements and procedures for serving in the program. The California Rules of Court describe the procedure for periodic review of judges serving on assignment as well as a formal process for dealing with complaints (see Cal. Rules of Court, rule 6.603(c)(4)(E)(i-iv)).

#### When is judicial assistance provided?

The Chief Justice issues assignments to a superior or appellate court at the request of the presiding judge or justice (or his or her designee). On behalf of the Chief Justice, the Administrative Office of the Courts (AOC) receives 350 to 450 such requests each month. Judicial assistance is provided to cover vacancies, illnesses, disqualifications, and calendar congestion; for replacement of judges who attend training or serve as faculty for the AOC Education Division; and to allow judges who sit on the Judicial Council and its advisory committees and task forces to attend meetings. In addition, if a judge retires or is elevated and has unfinished matters in his or her previous court, he or she may be assigned to complete those matters.

What criteria are used to decide which courts receive assistance? Under criteria established by the Chief Justice, the staff of the AOC Judicial Assignments Unit (part of the Appellate and Trial Court Judicial Services Division) recommends assignments to the Chief Justice. To develop its recommendations, the staff gives greatest priority to courts that are at risk of dismissing criminal cases, followed by courts with the most vacancies and disqualification matters. Small courts have priority over large courts, because large courts have more flexibility in allocating judicial resources. Every effort is made to fill all requests, although the number of requests may exceed the number of judges available for assignment.

How are assignments made?

Presiding judges and justices or their designees submit requests for judicial assistance to the Judicial Assignments Unit of the AOC, which acts on behalf of the Chief Justice. A request must include an explanation of why and when the assistance is needed and for how long. The Judicial Assignments Unit staff, familiar with courts' assignment needs and with the availability and experience of active and retired judges, consults a list of judges serving in the Assigned Judges Program. Before making a recommendation to the Chief Justice, the staff considers each judge's experience, expertise, and availability; the distance he or she is willing to travel; and the length of time he or she is willing to serve.

How long do assignments last?

A judge can be assigned for any length of time, depending on the court's need and the judge's availability. Assignments are generally granted for up to 60 days. The Chief Justice can renew an assignment if the presiding judge or justice or his or her designee requests the renewal.

What is a reciprocal assignment?

A reciprocal assignment is an order, issued annually by the Chief Justice and governed by rule 813 of the California Rules of Court, that enables judges in neighboring counties to hear matters in each other's courts. Reciprocal assignments are issued only upon the agreement of the presiding judges of the courts involved. They are updated periodically to reflect changes on the bench.

What is a challenge of a judge "for cause"?

A challenge for cause is a disqualification motion filed with the court, stating that a judge is prejudiced against a party, an attorney, or an interest in an action or proceeding. After a party files a challenge for cause (Code Civ. Proc., § 170.1 et seq.) asserting

reasons that a particular judge cannot be impartial and should be disqualified from hearing a matter, the judge can either consent to the disqualification or file a written statement opposing the challenge. If the judge opposes the challenge, stating that he or she is not biased, and the parties cannot stipulate to a neutral judge to decide the matter, the presiding judge of the court involved (or a designee) must request the assignment of a neutral judge to rule on the challenge.

The Judicial Assignments Unit staff identifies an available neutral judge and makes a recommendation to the Chief Justice, who assigns a judge. The court is then notified. The court forwards copies of the challenge, the judge's reply, and other pertinent information to the assigned neutral judge and notifies the parties.

If the assigned judge decides more information is needed or if a party requests a hearing, the assigned judge can schedule a hearing. He or she decides the merits of the challenge. If the original judge assigned to the case is then disqualified, the presiding judge assigns another judge (not the judge who ruled on the challenge), or an assignment request may be submitted to the Assigned Judges Program.

If all of the judges of a court have been disqualified or have recused themselves, the court must make an assignment request to the Chief Justice. The Judicial Assignments Unit recommends an available neutral judge, either active or retired, to the Chief Justice. The Chief Justice reviews the recommendation and assigns a judge to the matter. The use of a reciprocal assignment order is not appropriate in these matters.

Is the AOC informed of peremptory challenges of judges?

A peremptory challenge is made by a motion stating that a judge is prejudiced against a party. The challenge may be made without a supporting affidavit or declaration.

The Judicial Assignments Unit is informed of a peremptory challenge only if the court requests an assigned judge to hear the case (Code Civ. Proc., § 170.6). Otherwise, the AOC does not receive information about peremptory challenges.

What is the current compensation for assigned judges?

In addition to his or her retirement pension, a retired judge sitting on assignment is compensated at 92 percent of the salary of a judge of the court of record to which he or she is assigned, based on a 250-day year (Gov. Code, § 68543.5(a)). The state pays the entire cost of judges who serve on assignment.

An active superior court judge sitting by assignment on a Court of Appeal is paid the difference between his or her current pay and that of an appellate court justice. For entitlement to differential pay under Government Code section 68540.7, a superior court judge is deemed assigned to the Court of Appeal only if the major portion of the judge's workday is devoted to appellate court matters.

How are assigned retired judges evaluated for program admission and assignment?

Assigned retired judges may be evaluated through the following three processes.

#### **Application**

During the application process, the Judicial Assignments Unit staff initially reviews the qualifications of retired judges to sit on assignment. An applicant must file a release of information with the Commission on Judicial Performance, complete a background questionnaire, and request an evaluation from the presiding judge of the last court for which he or she served as an active judge. The Chief Justice reviews the application material in light of the current needs of the Assigned Judges Program and makes a decision to admit or not admit the judge to the program.

#### **Presiding judge evaluations**

Any judge in the Assigned Judges Program receives a performance evaluation from each court in which he or she served on assignment during a given year. The unit staff thoroughly reviews all negative evaluations and follows up on them.

#### **Complaints**

Complaints about an assigned retired judge may be received from any source. The staff cannot address substantive issues of law but does review allegations of judicial misconduct.

When the staff receives a negative evaluation or a complaint about a judge in the program, they determine the investigative steps that need to be taken. Investigations typically involve reports of bias, harassment, or negative demeanor. Depending on the results of the investigation, a report may be sent to the Chief Justice, who then considers appropriate actions, including removal of the judge from the program.

How much assistance do assigned judges provide?

Approximately 300 retired judges currently serve on assignment. Over the past five years, assigned judges have provided significant judicial assistance, as illustrated in the following table:

<b>Fiscal Year</b>	<b>Cost (<i>in millions</i>)</b>	<b>Days</b>	<b>Judge Full-Time Equivalent</b>
2001–2002	\$19.5	33,237	133
2002–2003	\$17.5	28,957	116
2003–2004	\$17.2	27,288	109
2004–2005	\$20.5	34,291	133
2005–2006	\$22	34,668	138

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